

California Regional Water Quality Control Board
Santa Ana Region
Staff Report
February 3, 2005

ITEM: 17

SUBJECT: Order No. R8-2005-0040 Affirming Mandatory Penalties Complaint No. R8-2004-0075 (revised), Venus Laboratories, Inc., Garden Grove, Orange County

BACKGROUND

On December 7, 2004, the Executive Officer issued Mandatory Penalties Complaint (MPC) No. R8-2004-0075 (revised) (copy attached) to Venus Laboratories, Inc., (Venus) for alleged violations of Waste Discharge Requirements, Order No. 97-13, NPDES No. CAS618003, (Permit). In the MPC, the Executive Officer proposed a mandatory minimum penalty of \$24,000 for the alleged violations.

INTRODUCTION

The matter before the California Regional Water Quality Control Board, Santa Ana Region (Board), is whether to affirm, reject, or modify the proposed mandatory penalties against Venus.

MPC No. R8-2004-0075 (revised) was issued by the Executive Officer to Venus for violations of the Permit for which the Board must impose a mandatory penalty pursuant to California Water Code (Water Code) Section 13385(h).

DISCUSSION

Venus currently operates a manufacturing facility for specialty cleaning, polishing, and sanitation products at its site in Garden Grove (previously in Huntington Beach). The storm water runoff from the Huntington Beach facility was regulated under the Permit, which expired on April 1, 2002. The Permit contained effluent limits for a number of constituents. The Permit also required Venus to submit self-monitoring reports on a semi-annual basis.

A review of the self-monitoring reports submitted by Venus during the term of the Permit indicates that there were a number of effluent limit violations. These violations are summarized in the table provided as Attachment 1 to MPC No. R8-2004-0075 (revised). From January 2000 to April 2002, a total of eight (8) serious effluent limit violations occurred for which the Board must impose mandatory penalties. The total mandatory penalties for the eight violations are \$24,000.00 (8 X \$3,000=\$24,000).

The Executive Officer issued MPC No. R8-2004-0075 (revised) proposing that the Board impose mandatory penalties of \$24,000 per Water Code Section 13385 on Venus for violations cited above.

STATEWIDE ENFORCEMENT POLICY

On February 19, 2002, the State Water Resources Control Board adopted a Revised Water Quality Enforcement Policy to ensure that enforcement actions throughout the State are fair, firm and consistent. The above-described mandatory penalties complaint is in accordance with the State Enforcement Policy.

RECOMMENDATION

Board staff recommends that the Board affirm MPC No. R8-2004-0075 (Revised) by adopting Order No. R8-2005-0040.

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

IN THE MATTER OF:

Complaint No. R8-2004-0075 (Revised)
for

Venus Laboratories, Inc.)
12601 Monarch Street)
Garden Grove, CA 92841)

Mandatory Penalties

Attn: E. Van Vlahakis, Owner)


YOU ARE HEREBY GIVEN NOTICE THAT:

1. Venus Laboratories, Inc., is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), must impose liability under Section 13385(h) of the California Water Code.
2. A hearing concerning this Complaint will be held before the Board within 90 days of the date of issuance of this complaint, unless Venus Laboratories, Inc., waives its right to a hearing. Waiver procedures are specified on Page 3, Item 10, of this complaint. If the hearing in this matter is not waived, the hearing will be held during the Board's regular meeting on **January 28, 2005, at the City of Santa Ana, 22 Civic Center Plaza, Santa Ana, California**. The meeting will begin at 9:00 a.m. Venus Laboratories, Inc., or its representatives will have an opportunity to appear and be heard and to contest the allegations in this Complaint and the imposition of mandatory penalties by the Board. An agenda for the meeting will be mailed to you not less than 10 days prior to the hearing date.
3. If the January 28, 2005 hearing is held, the Board will consider whether to affirm, reject or modify the proposed mandatory penalties or whether to refer the matter to the Attorney General for recovery of judicial civil liability.
4. This Complaint is based on the following facts:
 - a. On April 18, 1997, the Board adopted Waste Discharge Requirements Order No. 97-13 (NPDES No. CAS 618003) for Venus Laboratories, Inc. These requirements regulate the discharges of storm water associated with industrial activities at the Venus Laboratories, Inc., Huntington Beach facility.

- b. Venus Laboratories, Inc., submitted annual reports for storm water discharges collected from its site. Throughout the term of this permit, the reported analytical data show effluent limit violations for pH, oil and grease, sulfate, total dissolved solids, total suspended solids, total petroleum hydrocarbons as gasoline, methyl ethyl ketone, and methyl isobutyl ketone. These violations are presented in Table 1, which summarizes the reported analytical results for this facility.
5. Water Code Section 13385 (h) requires the Board to assess a mandatory minimum penalty of three thousand dollars (\$3,000) for each serious violation. Table 1, which is presented on Page 3 of this complaint, summarizes all of the serious violations that have occurred at your facility during the term of the permit, which expired on April 1, 2002. In 2004, Venus Laboratories, Inc., moved its operations from Huntington Beach to the City of Garden Grove and has not submitted a complete application for renewal of its NPDES permit.
6. As indicated on Table 1, there are 8 serious violations that meet the mandatory minimum penalty criteria specified in Section 13385(h).
7. Pursuant to Section 13385(c) of the California Water Code, the Board may impose administrative civil liability for the violations cited in Table 1. The maximum administrative civil liability that may be imposed for these violations is \$80,000 (for a total of 8 days of violations at \$10,000 per day for each day of violation). Additionally, they have been discharging storm water without a permit since April 1, 2002. The maximum penalty for discharging without a permit for 975 days @ \$10,000 per day is \$9,750,000.
8. The Executive Officer proposes that the Board impose mandatory penalties of \$24,000 on Venus Laboratories, Inc., for the violations cited above.
9. You may waive your right to a hearing. If you waive your right to a hearing, please sign the attached waiver form and mail it, together with a check or money order payable to the State Water Resources Control Board, for the amount of mandatory penalties proposed under paragraph 8, above. These documents should be mailed to Sacramento in the enclosed envelope.

If you have any questions, please contact Mark Smythe at (951) 782-4998, or Patrice Copeland at (951) 782-3238. For legal questions, contact the Regional Board's legal counsel, Jorge Leon, at (916) 341-5180.

12-7-04
Date


Gerard J. Thibeault
Executive Officer

Attachment 1
Summary Table of MPC Violations
Venus Laboratories, Inc.

Constituent (Pollutant Group Identification)	Effluent Limit	Calculated TRC Limit	MPC Serious Violations Concentration (Date/Location of Violation)	Total Violations Subject to MPC
Oil and Grease (Group I)	15 mg/L	21 mg/L	40 mg/L (1/25/00 @ Serial #1) 25 mg/L (2/14/00 @ Serial #1) 114 mg/L (1/8/01 @ Serial #1)	3
Total Dissolved Solids (Group I)	500 mg/L	700 mg/L	880 mg/L (1/8/01 @ Serial #1)	1
Total Suspended Solids (Group I)	100 mg/L	140 mg/L	542 mg/L (1/8/01 @ Serial #1) 175 mg/L (1/8/01 @ Serial #2)	2
Total Petroleum Hydrocarbons (Group II)	100 µg/L	120 µg/L	1,700 µg/L (1/8/01 @ Serial #1)	1
Methyl isobutyl ketone (Group II)	10 µg/L	12 µg/L	31 µg/L (1/8/01 @ Serial #1)	1
Total Violations:				8

GRAND TOTAL OF PENALTIES:

8 violations x \$3,000 per violation = \$24,000

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

In the matter of:)	Order No. R8-2005-0040
)	for
Venus Laboratories, Inc.)	Mandatory Minimum Penalties
12601 Monarch Street)	
Garden Grove, CA 92841)	
<u>Attention: Mr. E. Van Vlahakis</u>)	

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter Board), held a hearing on February 3, 2005 to receive testimony and take evidence on the allegations contained in Mandatory Penalties Complaint (MPC) No. R8-2004-0075 dated October 4, 2004, and revised on December 7, 2004, and on the recommendation for the imposition of mandatory penalties pursuant to Water Code Section 13385 in the amount of \$24,000. The Board finds as follows:

1. On April 18, 1997, the Board adopted Waste Discharge Requirements Order No. 97-13 (NPDES No. CAS 618003) for Venus Laboratories, Inc. (Venus) to regulate storm water runoff from its facility in Huntington Beach. In April 2004, Venus moved its operations from its facility at 15571 Commerce Lane in the City of Huntington Beach to 12601 Monarch Street in the City of Garden Grove. The Permit contains effluent limits for a number of constituents. Self monitoring reports submitted by Venus indicate that there were eight (8) serious effluent limit violations from January 2000 to April 2002. Section 13385(h)(1) of the Water Code requires that a mandatory penalty of \$3,000 be assessed for each serious violation. The total mandatory penalties for these effluent limit violations are \$24,000.
2. On October 4, 2004, the Executive Officer issued MPC No. R8-2004-0075 to Venus Laboratories, Inc. On December 7, 2004, the Executive Officer revised the MPC. The MPC proposed that the Board impose mandatory penalties in the amount of \$24,000 on Venus Laboratories, Inc., for the violations cited above.
3. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code Section 21100 et seq.) in accordance with Section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that, pursuant to California Water Code Section 13385, mandatory penalties shall be imposed on Venus Laboratories, Inc., in the amount of \$24,000 as proposed in Complaint No. R8-2004-0075 for the violations cited, payable as set forth below.

1. Venus Laboratories, Inc., shall pay a total of \$24,000 to the State Water Resources Control Board.
2. The Executive Officer is authorized to refer this matter to the Attorney General for enforcement.

Pursuant to Water Code Section 13320, you may petition the State Water Resources Control Board for review of this Order. If you choose to do so, you must submit the petition to the State Board within 30 days of the Regional Board's adoption of this Order.

I, Gerard J. Thibeault, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on February 3, 2005.

Gerard J. Thibeault
Executive Officer